

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PETE AND GINGER HINSKEN,

Plaintiffs,

v.

ALYSSA ZACH *et al.*,

Defendants

Case No. C06-5107RBL

ORDER STRIKING PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT AS PRE-MATURE

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Before the court is plaintiff's motion for summary judgment and two motions asking for an extension of time or a continuance of plaintiff's motion. (Dkt. # 16, 24, and 26).

This action was commenced on February 17th, 2006, when plaintiffs filed motions for *in forma pauperis* status, IFP, and a proposed complaint. (Dkt. # 1). The plaintiffs are a husband and wife. The original IFP application was deficient and the order granting IFP status was not entered until March 20th, 2006.

The court then considered the complaint and while the complaint was found worthy of service, plaintiff's had not provided service copies. The service copies were not received until May

ORDER

1 22nd, 2006. The court ordered service on May 30th, 2006. Just sixteen days later, prior to any
2 defendant accepting service, plaintiff's filed a motion for summary judgement. (Dkt. # 16).

3 The first defendants filed a notice of appearance on July 3rd, 2006. (Dkt. # 17). The majority
4 of served defendants argue:

5 The plaintiffs' motion for summary judgment is premature because the date for
6 answering the complaint falls after the date the motion is noted for consideration.
7 There has been no discovery and defense counsel is just beginning the process of
8 gathering information regarding the complaint. *Justice Declaration*. As a result, these
9 defendants are not in a position to present evidence in response to the plaintiffs'
10 motion. *Id.*

11 (Dkt. # 24). The defendant represented by the Cowlitz County Prosecutors office has joined in the
12 motion. (Dkt. # 26).

13 Defendants position is well taken. The motions for summary does not allow proper time for
14 discovery and is premature given the procedural history of this case. Plaintiff's motion will not be
15 considered at this time and is **STRUCK**.

16 Plaintiff's may submit a motion for summary judgment after allowing for time to answer and
17 60 days for discovery. No motion for summary judgment should be filed before October 8th, 2006.

18 In light of this order the motions for a continuance of the summary judgment are **DENIED**
19 **AS MOOT**.

20 The Clerk is directed to send a copy of this Order to plaintiff, and counsel for defendants who
21 have appeared and to remove docket numbers 16, 24, and 26 4 from the court's calendar.

22 DATED this 31st, day of July 2006.

23 /S/ J. Kelley Arnold

24 J. Kelley Arnold

25 United States Magistrate Judge

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28 ORDER